

Appointment

From: Moon, Diane [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A3DAF632C7894A269C682E1E8AB5879A-MOON, DIANE]
Sent: 1/24/2018 9:49:00 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]; O'Connor, Darcy [oconnor.darcy@epa.gov]; Hestmark, Martin [Hestmark.Martin@epa.gov]; Smidinger, Betsy [Smidinger.Betsy@epa.gov]; Shea, Valois [Shea.Valois@epa.gov]
CC: Stavnes, Sandra [Stavnes.Sandra@epa.gov]; Daly, Carl [Daly.Carl@epa.gov]; Fallon, Gail [fallon.gail@epa.gov]; Mylott, Richard [Mylott.Richard@epa.gov]
Subject: RA pre-Briefing for Wyoming Mining Association Meeting Invitation (NEW Atts Added)
Attachments: Response.Barrasso.18-000-2670.pdf; Barrasso.18-000-2670.pdf; WY Mining Association UIC Background final.docx; Official WOTUS Talking Points 020718.docx
Location: RA office - Call in added 202.991.0477 code [Ex: 8 Personal Privacy (PP)] (Doug - your PIN will be needed)
Start: 2/13/2018 7:30:00 PM
End: 2/13/2018 9:00:00 PM
Show Time As: Busy

Required Attendees: O'Connor, Darcy; Hestmark, Martin; Smidinger, Betsy; Shea, Valois
Optional Attendees: Stavnes, Sandra; Daly, Carl; Fallon, Gail; Mylott, Richard

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Moon, Diane has shared a OneDrive for Business file with you. To view it, click the link below.

 Talking Points for Wyoming Mining Association Meeting.docx

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Updates and 2 new docs from Darcy added 2/8

~~2 Briefing Docs from Darcy added 2/7~~

ADDED DISCUSSION TOPIC:

We would like to add one more discussion topic to the meeting with Administrator Benevento and the WMA Uranium Industry Committee on Wednesday, February 14 at 1:30 in Cheyenne, Wyoming:

- **Memorandum of Understanding between EPA and NRC on "Generally Acceptable Standards" Under UMTCA regarding Jurisdiction Over Groundwater**
 - In his letter regarding the 40 CFR Part 192 rulemaking Senator Barrasso called on Administrator Pruitt to withdraw the rule and "...in addition to withdrawing EPA's rule, you sign a Memorandum of Understanding with the Commission clarifying EPA's authority to set generally applicable standards and NRC's authority to implement the standards."
 - Such a Memorandum of Understanding (MOU) would eliminate the need for the rulemaking now and any potential need for one in the future..

Initial Items:

Several topics here involving air, water, NEPA and superfund. Darcy suggested a pre-brief on the 13th. Topics as provided for his discussions with the WMA Regulatory Affairs Committee (Wednesday, February 14 @ 9:00am) and WMA Uranium Industry Committee (Wednesday, February 14 @ 1:30pm). (Also info below these for the

WMA Regulatory Affairs – We have him slotted on the agenda for 10:30.

1. In 2016 EPA revised the rules governing exceptional events and how the operator of a monitor can demonstrate that an exceedance was the result of an exceptional event. The rule revisions were intended to clarify and simplify the process. It appears that EPA will continue to not participate in the process except when certain regulatory decisions are imminent. Yet, in order to be prepared for that eventuality, operators and the state are required to invest significant dollars and time preparing demonstration packages that will sit on shelves at EPA. Review and approval of these packages is critical for industry even if there is no pending regulatory decision, as the data associated with these exceedances remains in AQS and is available for public disclosure. EPA has thus far taken no ownership of the program, has required additional timely notification procedures when exceedances occur, yet did not hold themselves accountable in the rule with deadlines for their responses, actions or decisions. *What is the position of Region 8 on this and what is Region 8 willing to do or capable of doing to make this process less burdensome and to introduce federal action or certainty?*
2. In 2016, EPA revised the Part 58 monitoring rule to require further certification that data collected from air samplers is valid. The quality assurance requirements are now extreme for sampler operators including Wyoming and industrial permit holders in Wyoming in the new Primary Quality Assurance Organization program. It is not clear why the rule was promulgated. No one has shown that the data are not already world class and valid. The applicability of this rule seems to have surprised nearly everyone in Wyoming, a state where a large number of industrial monitors are operated and must come in to compliance with the rule – unlike any other state. In fact it was rumored that Region 8 was also surprised to learn that a large number of industrial monitors in Wyoming would be covered by this rule. In the early stages of implementation, EPA Region 8 has been slow to provide guidance. EPA also appears to be taking this opportunity to remove authorities previously exercised by the Wyoming Air Quality Division, and place them with EPA, such as approval authorities for the monitoring project plans that have historically been under the purview of the State agency. *What can EPA Region 8 do to return authorities to the State, and reduce the burdens of this program for which a need has never been demonstrated?*
3. EPA and the ACOE have indicated a desire to re-craft the Waters of the US rule which was proposed under the previous federal administration. This could have a beneficial effect on the Wyoming mining industry. *Can you spend a few minutes helping us understand some of the positions the EPA is proposing to change and the timing for this action.*
4. For decades federal agencies such as the Forest Service and the Bureau of Land Management have increased the agency standards for implementing the provisions of the National Environmental Policy Act. Where it originally started as a process to inform the federal decision-making process of environmental impacts from proposed project. Each agency has taken liberties to require more and more data collection and broaden the scope of the review, increasing time frames and costs associated with implementation of the process. Recently, several of these agencies have solicited comment on ways to streamline their respective NEPA processes. *Does Region 8 get involved in the required EPA NEPA reviews, and can Region 8 influence these efforts to streamline the process?*

WMA Uranium Industry Committee – We have him at the top of the agenda following our anti-trust briefing and safety share, close to 1:30.

- Withdrawal of the 40 CFR Part 192 rulemaking
- Revision of 40 CFR Part 61 Subpart W to remove any regulation of in-situ uranium recovery operations and heap leaching, essentially converting it back to the original December 15, 1989 rule.
- Aquifer exemptions, specifically acceptance of the previously proposed use of Public Land Survey System (PLSS) boundaries (the nearest quarter/quarter corner) to define aquifer exemption boundaries.
- Revision to the Memorandum of Understanding (MOU) on the listing of Agreement State 11e.(2) sites on the National Priorities List (NPL/Superfund)

As discussed below for his address to the WMA Board of Directors on Thursday, February 15 at 9:00am, have blocked approximately 30 minutes (or more if necessary) at the beginning of the meeting for general discussion of the direction of the agency and what industry could expect in the short term. That time is his for whatever he would like to convey.